



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/814,229 | 03/21/2001 | Roland Lippoldt | DT-3841 | 2010 |

30377 7590 11/12/2004

DAVID TOREN, ESQ.
SIDLEY, AUSTIN, BROWN & WOOD, LLP
787 SEVENTH AVENUE
NEW YORK, NY 10019-6018

| |
|----------|
| EXAMINER |
|----------|

LUGO, CARLOS

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3676

DATE MAILED: 11/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/814,229

Applicant(s)

LIPPOLDT ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on August 30, 2004.

Drawings

2. The examiner approved the proposed drawing correction, including more than one embodiment (new Figure 4), filed on January 13, 2003.

Specification

3. The examiner acknowledges the substitute specification filed on July 19, 2004. However, the applicant fails to provide the proper marks to identified what was the amendment. Therefore, the applicant needs to suminstrated a proper amendment to the specification in accordance with the new amendment policies.
4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The

Art Unit: 3676

disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because of the word "means" and because exceeds the 150 words limit. Correction is required. See MPEP § 608.01(b).

Claim Objections

6. **Claims 20 and 34 are objected** to because of the following informalities:

- Claim 20 Line 1, delete the word "new".
- Claims 34 Lines 3,5 and 16, change "at least on" to -at least one-.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. **Claims 20-34 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 20 and 34 recites the limitation "the at least one spring means holds the at least one catch hook with the first final stop on the guide member" in lines 18 and 19 of claim 20 and in lines 17 and 18 in claim 34. It is unclear how the spring will hold the catch hook if the spring is designed to retract the catch hook to the closing position. In order to continue with the examination, the limitation will not be considered.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 34 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 3,806,174 to Herman in view of US Pat No 3,403,934 to Butts.

Herman discloses a locking device comprising at least one swiveling lever (21) pivotally supported about an axis of rotation (about 26) in a housing (14 and 18) and including a projecting guide element (20); at least one drive (26) for pivoting at least one swiveling lever about the axis of rotation; at least one catch hook (25) supported on the swiveling lever (at 24) at a distance from the axis of rotation on a pivot axis (24) and having, at a radial distance from the pivot axis (24), a cam segment (30) concentric thereto, into which the guide element (20) of the swiveling lever engages; and at least one spring means (34) for biasing the at least one catch hook in a closing direction until the guide element (20) bears against a first final stop of the cam segment (Figures 3-5).

A closure (12) has at least one closing edge (15,16 and 33), which is gripped upon the closure is locked with the housing (14 and 18) so that in an opening position of the at least one catch hook (25) and with the at least one swiveling lever (8) pivoted in the closing direction, the at least one spring means (34) holds the at least one catch hook (25) with the first final stop (Figure 5) on the guide element

Art Unit: 3676

(30) for pivoting the at least one catch hook with the at least one swiveling lever in the closing direction, wherein with the at least one catch hook impinging on the closing edge and the swiveling lever still pivoted in the closing direction until the guide element moves, within the cam segment, to a second final stop (Figure 3) thereof. The at least one swiveling lever moves the pivot axis with the at least one catch hook in the closing direction of the closure, with the at least one catch hook pulling the closure into the closing position.

However, Herman fails to disclose that the at least one catch hook sealingly pulls back the closure against a housing seal. Herman only discloses that the catch hook will pull back the closure (Figures 3-5). Herman does not disclose a seal between the frame or housing and the closure.

Butts teaches that it is well known in the art to have a seal (22) between a closure and a housing (12 and 20) in combination with a catch hook (16), so that when the catch hook pulls the closure in the closing position, it will create a sealing engagement between the closure and the housing.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a seal, as taught by Butts, with the device as described by Herman, in order to seal between the closure and the housing so as to protect the interior from contaminants.

Allowable Subject Matter

11. **Claim 20 would be allowable** if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claims 21-33 would also be allowed because the claims depend from claim 20.

Reasons For Allowance

12. The following is an examiner's statement of reasons for allowance:

Claim 20 is allowable over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the swiveling lever has a series of teeth which interacts with a series of teeth of the drive in order to pivot the swiveling lever about the axis of rotation, as recited in lines 28-30 of claim 20.

The closest prior art, Herman (US 3,806,174), discloses a locking device comprising a swiveling lever (21) having a projecting guide element (20), a drive (26), a catch hook (25) and a spring (34). However, Herman fails to disclose that the swiveling lever has a series of teeth that interacts with a series of teeth of the drive in order to pivot the swiveling lever about the axis of rotation.

Malsom (US 6,327,879) discloses a locking device comprising a swiveling lever (94) having a projecting guide element, a drive (95), a catch hook (80) and a spring (84). The swiveling lever has a series of teeth that interacts with a series of teeth of the drive in order to pivot the swiveling lever about the axis of rotation. However, Malsom fails to disclose that the spring biases the catch hook to a closed position and that the catch hook is supported in the swiveling lever. Malsom discloses that

Art Unit: 3676

the spring biases the catch hook to an open direction and that the catch hook is not supported in the swiveling lever.

Tame (US 4,796,932) discloses a locking device comprising a swiveling lever (40) having a projecting guide element (48), a drive (138), a catch hook (74) and a spring (130). The swiveling lever has a series of teeth that interacts with a series of teeth of the drive in order to pivot the swiveling lever about the axis of rotation. However, Tame fails to disclose that the catch hook includes a cam segment having first and second final stops, so that the projecting guide member of the swiveling lever can move between the stops. Tame discloses that the swiveling lever has a projecting guide member (48 and 50) connected to a "cam segment" (62). However, the cam segment does not have a first and second final stops so that the guide member can be restrain.

Also, it would not be obvious to one having ordinary skill in the art to combine the teachings of Malsom or Tame, regarding the teeth engagement between the drive and the swiveling lever, into the device as described by Herman, because the device that Herman describes works differently from the one presented by Malsom.

Furthermore, it would not be obvious to combine the teachings of Herman, regarding the spring biasing the catch hook to the closing position and that the catch hook is supported on the swiveling lever, into the device that Malsom describes, because Malsom catch hook is designed to work in combination with the swiveling lever, but as a separate member, not supported on the swiveling lever.

Art Unit: 3676

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 703-305-9747. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive, flowing style with a large initial 'D'.

Carlos Lugo
AU 3677

November 2, 2004.

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600